

AMENDED IN ASSEMBLY APRIL 7, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2364

Introduced by Assembly Members Holden and Gipson

February 18, 2016

An act to amend Sections 76004 and 76140 of the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2364, as amended, Holden. Public postsecondary education: community colleges: exemption from nonresident tuition.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts throughout the state, and authorizes them to operate campuses and provide instruction to students. Existing law authorizes community college districts to admit nonresident students, and requires that nonresident students be charged a nonresident tuition fee unless an exemption is applicable. Existing law authorizes a community college district to exempt from all or parts of the fee a special part-time student admitted pursuant to a specified *concurrent or dual enrollment* program.

This bill instead would require a community college district to exempt a special part-time student, other than a nonimmigrant alien, as defined, from paying all or parts of the fee if that student is admitted pursuant to *one of additionally specified concurrent or dual enrollment* programs.

Because the bill would require community college districts to determine whether students qualify for exemption from nonresident tuition, it would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 76004 of the Education Code is amended
- 2 to read:
- 3 76004. Notwithstanding Section 76001 or any other law:
- 4 (a) The governing board of a community college district may
- 5 enter into a College and Career Access Pathways (CCAP)
- 6 partnership with the governing board of a school district for the
- 7 purpose of offering or expanding dual enrollment opportunities
- 8 for students who may not already be college bound or who are
- 9 underrepresented in higher education, with the goal of developing
- 10 seamless pathways from high school to community college for
- 11 career technical education or preparation for transfer, improving
- 12 high school graduation rates, or helping high school pupils achieve
- 13 college and career readiness.
- 14 (b) A participating community college district may enter into a
- 15 CCAP partnership with a school district partner that is governed
- 16 by a CCAP partnership agreement approved by the governing
- 17 boards of both districts. As a condition of, and before adopting, a
- 18 CCAP partnership agreement, the governing board of each district,
- 19 at an open public meeting of that board, shall present the dual
- 20 enrollment partnership agreement as an informational item. The
- 21 governing board of each district, at a subsequent open public
- 22 meeting of that board, shall take comments from the public and
- 23 approve or disapprove the proposed agreement.
- 24 (c) (1) The CCAP partnership agreement shall outline the terms
- 25 of the CCAP partnership and shall include, but not necessarily be

1 limited to, the total number of high school students to be served
2 and the total number of full-time equivalent students projected to
3 be claimed by the community college district for those students;
4 the scope, nature, time, location, and listing of community college
5 courses to be offered; and criteria to assess the ability of pupils to
6 benefit from those courses. The CCAP partnership agreement shall
7 also establish protocols for information sharing, in compliance
8 with all applicable state and federal privacy laws, joint facilities
9 use, and parental consent for high school pupils to enroll in
10 community college courses.

11 (2) The CCAP partnership agreement shall identify a point of
12 contact for the participating community college district and school
13 district partner.

14 (3) A copy of the CCAP partnership agreement shall be filed
15 with the office of the Chancellor of the California Community
16 Colleges and with the department before the start of the CCAP
17 partnership. The chancellor may void any CCAP partnership
18 agreement it determines has not complied with the intent of the
19 requirements of this section.

20 (d) A community college district participating in a CCAP
21 partnership shall not provide physical education course
22 opportunities to high school pupils pursuant to this section or any
23 other course opportunities that do not assist in the attainment of
24 at least one of the goals listed in subdivision (a).

25 (e) A community college district shall not enter into a CCAP
26 partnership with a school district within the service area of another
27 community college district, except where an agreement exists, or
28 is established, between those community college districts
29 authorizing that CCAP partnership.

30 (f) A high school pupil enrolled in a course offered through a
31 CCAP partnership shall not be assessed any fee that is prohibited
32 by Section 49011.

33 (g) A community college district participating in a CCAP
34 partnership may assign priority for enrollment and course
35 registration to a pupil seeking to enroll in a community college
36 course that is required for the pupil's CCAP partnership program
37 that is equivalent to the priority assigned to a pupil attending a
38 middle college high school as described in Section 11300 and
39 consistent with middle college high school provisions in Section
40 76001.

1 (h) The CCAP partnership agreement shall certify that any
2 community college instructor teaching a course on a high school
3 campus has not been convicted of any sex offense as defined in
4 Section 87010, or any controlled substance offense as defined in
5 Section 87011.

6 (i) The CCAP partnership agreement shall certify that any
7 community college instructor teaching a course at the partnering
8 high school campus has not displaced or resulted in the termination
9 of an existing high school teacher teaching the same course on that
10 high school campus.

11 (j) The CCAP partnership agreement shall certify that a qualified
12 high school teacher teaching a course offered for college credit at
13 a high school campus has not displaced or resulted in the
14 termination of an existing community college faculty member
15 teaching the same course at the partnering community college
16 campus.

17 (k) The CCAP partnership agreement shall include a certification
18 by the participating community college district of all of the
19 following:

20 (1) A community college course offered for college credit at
21 the partnering high school campus does not reduce access to the
22 same course offered at the partnering community college campus.

23 (2) A community college course that is oversubscribed or has
24 a waiting list shall not be offered in the CCAP partnership.

25 (3) Participation in a CCAP partnership is consistent with the
26 core mission of the community colleges pursuant to Section
27 66010.4, and that pupils participating in a CCAP partnership will
28 not lead to enrollment displacement of otherwise eligible adults
29 in the community college.

30 (l) The CCAP partnership agreement shall certify that both the
31 school district and community college district partners comply
32 with local collective bargaining agreements and all state and federal
33 reporting requirements regarding the qualifications of the teacher
34 or faculty member teaching a CCAP partnership course offered
35 for high school credit.

36 (m) The CCAP partnership agreement shall specify both of the
37 following:

38 (1) Which participating district will be the employer of record
39 for purposes of assignment monitoring and reporting to the county
40 office of education.

1 (2) Which participating district will assume reporting
2 responsibilities pursuant to applicable federal teacher quality
3 mandates.

4 (n) The CCAP partnership agreement shall certify that any
5 remedial course taught by community college faculty at a
6 partnering high school campus shall be offered only to high school
7 students who do not meet their grade level standard in math,
8 English, or both on an interim assessment in grade 10 or 11, as
9 determined by the partnering school district, and shall involve a
10 collaborative effort between high school and community college
11 faculty to deliver an innovative remediation course as an
12 intervention in the student's junior or senior year to ensure the
13 student is prepared for college-level work upon graduation.

14 (o) (1) A community college district may limit enrollment in
15 a community college course solely to eligible high school students
16 if the course is offered at a high school campus during the regular
17 school day and the community college course is offered pursuant
18 to a CCAP partnership agreement.

19 (2) For purposes of allowances and apportionments from Section
20 B of the State School Fund, a community college district
21 conducting a closed course on a high school campus pursuant to
22 paragraph (1) of subdivision (p) shall be credited with those units
23 of full-time equivalent students attributable to the attendance of
24 eligible high school pupils.

25 (p) A community college district may allow a special part-time
26 student participating in a CCAP partnership agreement established
27 pursuant to this article to enroll in up to a maximum of 15 units
28 per term if all of the following circumstances are satisfied:

29 (1) The units constitute no more than four community college
30 courses per term.

31 (2) The units are part of an academic program that is part of a
32 CCAP partnership agreement established pursuant to this article.

33 (3) The units are part of an academic program that is designed
34 to award students both a high school diploma and an associate
35 degree or a certificate or credential.

36 (q) The governing board of a community college district
37 participating in a CCAP partnership agreement established pursuant
38 to this article shall exempt special part-time students described in
39 subdivision (p) from the fee requirements in Sections 76060.5,
40 76223, 76300, 76350, and 79121.

1 (r) A district shall not receive a state allowance or apportionment
2 for an instructional activity for which the partnering district has
3 been, or shall be, paid an allowance or apportionment.

4 (s) The attendance of a high school pupil at a community college
5 as a special part-time or full-time student pursuant to this section
6 is authorized attendance for which the community college shall
7 be credited or reimbursed pursuant to Section 48802 or 76002,
8 provided that no school district has received reimbursement for
9 the same instructional activity.

10 (t) (1) For each CCAP partnership agreement entered into
11 pursuant to this section, the affected community college district
12 and school district shall report annually to the office of the
13 Chancellor of the California Community Colleges all of the
14 following information:

15 (A) The total number of high school pupils by schoolsite
16 enrolled in each CCAP partnership, aggregated by gender and
17 ethnicity, and reported in compliance with all applicable state and
18 federal privacy laws.

19 (B) The total number of community college courses by course
20 category and type and by schoolsite enrolled in by CCAP
21 partnership participants.

22 (C) The total number and percentage of successful course
23 completions, by course category and type and by schoolsite, of
24 CCAP partnership participants.

25 (D) The total number of full-time equivalent students generated
26 by CCAP partnership community college district participants.

27 (2) On or before January 1, 2021, the chancellor shall prepare
28 a summary report that includes an evaluation of the CCAP
29 partnerships, an assessment of trends in the growth of special
30 admits systemwide and by campus, and, based upon the data
31 collected pursuant to this section, recommendations for program
32 improvements, including, but not necessarily limited to, both of
33 the following:

34 (A) Any recommended changes to the statewide cap on special
35 admit full-time equivalent students to ensure that adults are not
36 being displaced.

37 (B) Any recommendation concerning the need for additional
38 student assistance or academic resources to ensure the overall
39 success of the CCAP partnerships.

1 (3) The chancellor shall ensure that the number of full-time
2 equivalent students generated by CCAP partnerships is reported
3 pursuant to the reporting requirements in Section 76002.

4 (u) The annual report required by subdivision (t) shall also be
5 transmitted to all of the following:

6 (1) The Legislature, in compliance with Section 9795 of the
7 Government Code.

8 (2) The Director of Finance.

9 (3) The Superintendent.

10 (v) A community college district that violates this article,
11 including, but not necessarily limited to, any restriction imposed
12 by the board of governors pursuant to this article, shall be subject
13 to the same penalty as may be imposed pursuant to subdivision
14 (d) of Section 78032.

15 (w) The statewide number of full-time equivalent students
16 claimed as special admits shall not exceed 10 percent of the total
17 number of full-time equivalent students claimed statewide.

18 (x) Nothing in this section is intended to affect a dual enrollment
19 partnership agreement existing on the effective date of this section
20 under which an early college high school, a middle college high
21 school, or California Career Pathways Trust existing on the
22 effective date of this section is operated. An early college high
23 school, middle college high school, or California Career Pathways
24 Trust partnership agreement existing on the effective date of this
25 section shall not operate as a CCAP partnership unless it complies
26 with the provisions of this section.

27 (y) This section shall remain in effect only until January 1, 2022,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2022, deletes or extends that date.

30 SEC. 2. Section 76140 of the Education Code, as amended by
31 Section 2.5 of Chapter 576 of the Statutes of 2013, is amended to
32 read:

33 76140. (a) A community college district may admit, and shall
34 charge a tuition fee to, nonresident students, except that a
35 community college district may exempt from all or parts of the
36 fee any person described in paragraph (1), (2), or (3), and shall
37 exempt from all of the fee any person described in paragraph (4)
38 or (5):

1 (1) All nonresidents who enroll for six or fewer units.
2 Exemptions made pursuant to this paragraph shall not be made on
3 an individual basis.

4 (2) Any nonresident who is both a citizen and resident of a
5 foreign country, if the nonresident has demonstrated a financial
6 need for the exemption. Not more than 10 percent of the
7 nonresident foreign students attending any community college
8 district may be so exempted. Exemptions made pursuant to this
9 paragraph may be made on an individual basis.

10 (3) (A) A student who, as of August 29, 2005, was enrolled,
11 or admitted with an intention to enroll, in the fall term of the
12 2005–06 academic year in a regionally accredited institution of
13 higher education in Alabama, Louisiana, or Mississippi, and who
14 could not continue his or her attendance at that institution as a
15 direct consequence of damage sustained by that institution as a
16 result of Hurricane Katrina.

17 (B) The chancellor shall develop guidelines for the
18 implementation of this paragraph. These guidelines shall include
19 standards for appropriate documentation of student eligibility to
20 the extent feasible.

21 (C) This paragraph shall apply only to the 2005–06 academic
22 year.

23 (4) A special part-time student, other than a nonimmigrant alien
24 within the meaning of paragraph (15) of subsection (a) of Section
25 1101 of Title 8 of the United States Code, admitted pursuant to
26 Section ~~7600~~ 76001, 76003, or 76004.

27 (5) A nonresident student who is a United States citizen who
28 resides in a foreign country, if that nonresident meets all of the
29 following requirements:

30 (A) Demonstrates a financial need for the exemption.

31 (B) Has a parent or guardian who has been deported or was
32 permitted to depart voluntarily under the federal Immigration and
33 Nationality Act in accordance with Section 1229c of Title 8 of the
34 United States Code. The student shall provide documents from the
35 United States Citizenship and Immigration Services evidencing
36 the deportation or voluntary departure of his or her parent or
37 guardian.

38 (C) Moved abroad as a result of the deportation or voluntary
39 departure specified in subparagraph (B).

1 (D) Lived in California immediately before moving abroad. The
2 student shall provide information and evidence that demonstrates
3 the student previously lived in California.

4 (E) Attended a public or private secondary school, as described
5 in Sections 52 and 53, in the state for three or more years. The
6 student shall provide documents that demonstrate his or her
7 secondary school attendance.

8 (F) Upon enrollment, will be in his or her first academic year
9 as a matriculated student in California public higher education, as
10 that term is defined in subdivision (a) of Section 66010, will be
11 living in California, and will file an affidavit with the institution
12 stating that he or she intends to establish residency in California
13 as soon as possible.

14 (b) A district may contract with a state, a county contiguous to
15 California, the federal government, or a foreign country, or an
16 agency thereof, for payment of all or a part of a nonresident
17 student's tuition fee.

18 (c) Nonresident students shall not be reported as full-time
19 equivalent students (FTES) for state apportionment purposes,
20 except as provided by subdivision (j) or another statute, in which
21 case a nonresident tuition fee may not be charged.

22 (d) The nonresident tuition fee shall be set by the governing
23 board of each community college district not later than February
24 1 of each year for the succeeding fiscal year. The governing board
25 of each community college district shall provide nonresident
26 students with notice of nonresident tuition fee changes during the
27 spring term before the fall term in which the change will take
28 effect. Nonresident tuition fee increases shall be gradual, moderate,
29 and predictable. The fee may be paid in installments, as determined
30 by the governing board of the district.

31 (e) (1) The fee established by the governing board pursuant to
32 subdivision (d) shall represent for nonresident students enrolled
33 in 30 semester units or 45 quarter units of credit per fiscal year
34 one or more of the following:

35 (A) The amount that was expended by the district for the
36 expense of education as defined by the California Community
37 College Budget and Accounting Manual in the preceding fiscal
38 year increased by the projected percent increase in the United
39 States Consumer Price Index as determined by the Department of
40 Finance for the current fiscal year and succeeding fiscal year and

1 divided by the FTES (including nonresident students) attending
2 in the district in the preceding fiscal year. However, if for the
3 district's preceding fiscal year FTES of all students attending in
4 the district in noncredit courses is equal to, or greater than, 10
5 percent of the district's total FTES attending in the district, the
6 district may substitute the data for expense of education in grades
7 13 and 14 and FTES in grades 13 and 14 attending in the district.

8 (B) The expense of education in the preceding fiscal year of all
9 districts increased by the projected percent increase in the United
10 States Consumer Price Index as determined by the Department of
11 Finance for the fiscal year and succeeding fiscal year and divided
12 by the FTES (including nonresident students) attending all districts
13 during the preceding fiscal year. However, if the amount calculated
14 under this paragraph for the succeeding fiscal year is less than the
15 amount established for the current fiscal year or for any of the past
16 four fiscal years, the district may set the nonresident tuition fee at
17 the greater of the current or any of the past four-year amounts.

18 (C) An amount not to exceed the fee established by the
19 governing board of any contiguous district.

20 (D) An amount not to exceed the amount that was expended by
21 the district for the expense of education, but in no case less than
22 the statewide average as set forth in subparagraph (B).

23 (E) An amount no greater than the average of the nonresident
24 tuition fees of public community colleges of no less than 12 states
25 that are comparable to California in cost of living. The
26 determination of comparable states shall be based on a composite
27 cost-of-living index as determined by the United States Department
28 of Labor or a cooperating government agency.

29 (2) The additional revenue generated by the increased
30 nonresident tuition permitted under the amendments made to this
31 subdivision during the 2009–10 Regular Session shall be used to
32 expand and enhance services to resident students. In no event shall
33 the admission of nonresident students come at the expense of
34 resident enrollment.

35 (f) The governing board of each community college district also
36 shall adopt a tuition fee per unit of credit for nonresident students
37 enrolled in more or less than 15 units of credit per term by dividing
38 the fee determined in subdivision (e) by 30 for colleges operating
39 on the semester system and 45 for colleges operating on the quarter
40 system and rounding to the nearest whole dollar. The same rate

1 shall be uniformly charged nonresident students attending any
2 terms or sessions maintained by the community college. The rate
3 charged shall be the rate established for the fiscal year in which
4 the term or session ends.

5 (g) Any loss in district revenue generated by the nonresident
6 tuition fee shall not be offset by additional state funding.

7 (h) Any district that has fewer than 1,500 FTES and whose
8 boundary is within 10 miles of another state that has a reciprocity
9 agreement with California governing student attendance and fees
10 may exempt students from that state from the mandatory fee
11 requirement described in subdivision (a) for nonresident students.

12 (i) Any district that has more than 1,500, but less than 3,001,
13 FTES and whose boundary is within 10 miles of another state that
14 has a reciprocity agreement with California governing student
15 attendance and fees may, in any one fiscal year, exempt up to 100
16 FTES from that state from the mandatory fee requirement described
17 in subdivision (a) for nonresident students.

18 (j) The attendance of nonresident students who are exempted
19 pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (4),
20 or (5) of subdivision (a), from the mandatory fee requirement
21 described in subdivision (a) for nonresident students may be
22 reported as resident FTES for state apportionment purposes. Any
23 nonresident student reported as resident FTES for state
24 apportionment purposes pursuant to subdivision (h) or (i) shall
25 pay a per unit fee that is three times the amount of the fee
26 established for residents pursuant to Section 76300. That fee is to
27 be included in the FTES adjustments described in Section 76300
28 for purposes of computing apportionments.

29 SEC. 3. Section 76140 of the Education Code, as amended by
30 Section 1 of Chapter 657 of the Statutes of 2015, is amended to
31 read:

32 76140. (a) A community college district may admit, and shall
33 charge a tuition fee to, nonresident students, except that a
34 community college district may exempt from all or parts of the
35 fee any person described in paragraph (1), (2), (3), or (6), and shall
36 exempt from all of the fee any person described in paragraph (4)
37 or (5):

38 (1) All nonresidents who enroll for six or fewer units.
39 Exemptions made pursuant to this paragraph shall not be made on
40 an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.

(3) (A) A student who, as of August 29, 2005, was enrolled, or admitted with an intention to enroll, in the fall term of the 2005–06 academic year in a regionally accredited institution of higher education in Alabama, Louisiana, or Mississippi, and who could not continue his or her attendance at that institution as a direct consequence of damage sustained by that institution as a result of Hurricane Katrina.

(B) The chancellor shall develop guidelines for the implementation of this paragraph. These guidelines shall include standards for appropriate documentation of student eligibility to the extent feasible.

(C) This paragraph shall apply only to the 2005–06 academic year.

(4) A special part-time student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, admitted pursuant to Section ~~7600~~ 76001, 76003, or 76004.

(5) A nonresident student who is a United States citizen who resides in a foreign country, if that nonresident meets all of the following requirements:

(A) Demonstrates a financial need for the exemption.

(B) Has a parent or guardian who has been deported or was permitted to depart voluntarily under the federal Immigration and Nationality Act in accordance with Section 1229c of Title 8 of the United States Code. The student shall provide documents from the United States Citizenship and Immigration Services evidencing the deportation or voluntary departure of his or her parent or guardian.

(C) Moved abroad as a result of the deportation or voluntary departure specified in subparagraph (B).

(D) Lived in California immediately before moving abroad. The student shall provide information and evidence that demonstrates the student previously lived in California.

1 (E) Attended a public or private secondary school, as described
2 in Sections 52 and 53, in the state for three or more years. The
3 student shall provide documents that demonstrate his or her
4 secondary school attendance.

5 (F) Upon enrollment, will be in his or her first academic year
6 as a matriculated student in California public higher education, as
7 that term is defined in subdivision (a) of Section 66010, will be
8 living in California, and will file an affidavit with the institution
9 stating that he or she intends to establish residency in California
10 as soon as possible.

11 (6) (A) A student who attends Lake Tahoe Community College
12 and who has residence, pursuant to subparagraph (B), in one of
13 the following communities in Nevada:

14 (i) Incline Village.

15 (ii) Kingsbury.

16 (iii) Round Hill.

17 (iv) Skyland.

18 (v) Stateline.

19 (vi) Zephyr Cove.

20 (B) Residence shall be determined pursuant to Article 5
21 (commencing with Section 68060) of Chapter 1 of Part 41 of
22 Division 5. A person shall have residence in one of the
23 communities listed in subparagraph (A) if the person has lived in
24 the community for more than one year immediately prior to seeking
25 the fee exemption pursuant to this paragraph.

26 (C) The governing board of the Lake Tahoe Community College
27 District shall adopt rules and regulations for determining a student's
28 residence classification and for establishing procedures for an
29 appeal and review of the residence classification. No more than
30 200 students shall be exempted from payment of a nonresident
31 tuition fee under this paragraph in any academic year.

32 (b) A district may contract with a state, a county contiguous to
33 California, the federal government, or a foreign country, or an
34 agency thereof, for payment of all or a part of a nonresident
35 student's tuition fee.

36 (c) Nonresident students shall not be reported as full-time
37 equivalent students (FTES) for state apportionment purposes,
38 except as provided by subdivision (j) or another statute, in which
39 case a nonresident tuition fee may not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e) (1) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year one or more of the following:

(A) The amount that was expended by the district for the expense of education as defined by the California Community Colleges Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year. However, if for the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district may substitute the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(B) The expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year. However, if the amount calculated under this paragraph for the succeeding fiscal year is less than the amount established for the current fiscal year or for any of the past four fiscal years, the district may set the nonresident tuition fee at the greater of the current or any of the past four-year amounts.

(C) An amount not to exceed the fee established by the governing board of any contiguous district.

1 (D) An amount not to exceed the amount that was expended by
2 the district for the expense of education, but in no case less than
3 the statewide average as set forth in subparagraph (B).

4 (E) An amount no greater than the average of the nonresident
5 tuition fees of public community colleges of no less than 12 states
6 that are comparable to California in cost of living. The
7 determination of comparable states shall be based on a composite
8 cost-of-living index as determined by the United States Department
9 of Labor or a cooperating government agency.

10 (2) The additional revenue generated by the increased
11 nonresident tuition permitted under the amendments made to this
12 subdivision during the 2009–10 Regular Session shall be used to
13 expand and enhance services to resident students. In no event shall
14 the admission of nonresident students come at the expense of
15 resident enrollment.

16 (f) The governing board of each community college district also
17 shall adopt a tuition fee per unit of credit for nonresident students
18 enrolled in more or less than 15 units of credit per term by dividing
19 the fee determined in subdivision (e) by 30 for colleges operating
20 on the semester system and 45 for colleges operating on the quarter
21 system and rounding to the nearest whole dollar. The same rate
22 shall be uniformly charged nonresident students attending any
23 terms or sessions maintained by the community college. The rate
24 charged shall be the rate established for the fiscal year in which
25 the term or session ends.

26 (g) Any loss in district revenue generated by the nonresident
27 tuition fee shall not be offset by additional state funding.

28 (h) Any district that has fewer than 1,500 FTES and whose
29 boundary is within 10 miles of another state that has a reciprocity
30 agreement with California governing student attendance and fees
31 may exempt students from that state from the mandatory fee
32 requirement described in subdivision (a) for nonresident students.

33 (i) Any district that has more than 1,500, but less than 3,001,
34 FTES and whose boundary is within 10 miles of another state that
35 has a reciprocity agreement with California governing student
36 attendance and fees may, in any one fiscal year, exempt up to 100
37 FTES from that state from the mandatory fee requirement described
38 in subdivision (a) for nonresident students.

39 (j) The attendance of nonresident students who are exempted
40 pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (4),

(5), or (6) of subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes who is exempt pursuant to paragraph (6) of subdivision (a), or pursuant to subdivision (h) or (i), shall pay a per unit fee that is three times the amount of the fee established for residents pursuant to Section 76300. That fee is to be included in the FTES adjustments described in Section 76300 for purposes of computing apportionments.

(k) This section shall become inoperative on July 1, 2022, and, as of January 1, 2023, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2023, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 76140 of the Education Code, as added by Section 2 of Chapter 657 of the Statutes of 2015, is amended to read:

76140. (a) A community college district may admit, and shall charge a tuition fee to, nonresident students, except that a community college district may exempt from all or parts of the fee any person described in paragraph (1), (2), or (3), and shall exempt from all of the fee any person described in paragraph (4) or (5):

(1) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this paragraph shall not be made on an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.

(3) (A) A student who, as of August 29, 2005, was enrolled, or admitted with an intention to enroll, in the fall term of the 2005–06 academic year in a regionally accredited institution of higher education in Alabama, Louisiana, or Mississippi, and who could not continue his or her attendance at that institution as a direct consequence of damage sustained by that institution as a result of Hurricane Katrina.

1 (B) The chancellor shall develop guidelines for the
2 implementation of this paragraph. These guidelines shall include
3 standards for appropriate documentation of student eligibility to
4 the extent feasible.

5 (C) This paragraph shall apply only to the 2005–06 academic
6 year.

7 (4) A special part-time student, other than a nonimmigrant alien
8 within the meaning of paragraph (15) of subsection (a) of Section
9 1101 of Title 8 of the United States Code, admitted pursuant to
10 Section ~~7600~~ 76001, 76003, or 76004.

11 (5) A nonresident student who is a United States citizen who
12 resides in a foreign country, if that nonresident meets all of the
13 following requirements:

14 (A) Demonstrates a financial need for the exemption.

15 (B) Has a parent or guardian who has been deported or was
16 permitted to depart voluntarily under the federal Immigration and
17 Nationality Act in accordance with Section 1229c of Title 8 of the
18 United States Code. The student shall provide documents from the
19 United States Citizenship and Immigration Services evidencing
20 the deportation or voluntary departure of his or her parent or
21 guardian.

22 (C) Moved abroad as a result of the deportation or voluntary
23 departure specified in subparagraph (B).

24 (D) Lived in California immediately before moving abroad. The
25 student shall provide information and evidence that demonstrates
26 the student previously lived in California.

27 (E) Attended a public or private secondary school, as described
28 in Sections 52 and 53, in the state for three or more years. The
29 student shall provide documents that demonstrate his or her
30 secondary school attendance.

31 (F) Upon enrollment, will be in his or her first academic year
32 as a matriculated student in California public higher education, as
33 that term is defined in subdivision (a) of Section 66010, will be
34 living in California, and will file an affidavit with the institution
35 stating that he or she intends to establish residency in California
36 as soon as possible.

37 (b) A district may contract with a state, a county contiguous to
38 California, the federal government, or a foreign country, or an
39 agency thereof, for payment of all or a part of a nonresident
40 student's tuition fee.

1 (c) Nonresident students shall not be reported as full-time
2 equivalent students (FTES) for state apportionment purposes,
3 except as provided by subdivision (j) or another statute, in which
4 case a nonresident tuition fee may not be charged.

5 (d) The nonresident tuition fee shall be set by the governing
6 board of each community college district not later than February
7 1 of each year for the succeeding fiscal year. The governing board
8 of each community college district shall provide nonresident
9 students with notice of nonresident tuition fee changes during the
10 spring term before the fall term in which the change will take
11 effect. Nonresident tuition fee increases shall be gradual, moderate,
12 and predictable. The fee may be paid in installments, as determined
13 by the governing board of the district.

14 (e) (1) The fee established by the governing board pursuant to
15 subdivision (d) shall represent for nonresident students enrolled
16 in 30 semester units or 45 quarter units of credit per fiscal year
17 one or more of the following:

18 (A) The amount that was expended by the district for the
19 expense of education as defined by the California Community
20 Colleges Budget and Accounting Manual in the preceding fiscal
21 year increased by the projected percent increase in the United
22 States Consumer Price Index as determined by the Department of
23 Finance for the current fiscal year and succeeding fiscal year and
24 divided by the FTES (including nonresident students) attending
25 in the district in the preceding fiscal year. However, if for the
26 district's preceding fiscal year FTES of all students attending in
27 the district in noncredit courses is equal to, or greater than, 10
28 percent of the district's total FTES attending in the district, the
29 district may substitute the data for expense of education in grades
30 13 and 14 and FTES in grades 13 and 14 attending in the district.

31 (B) The expense of education in the preceding fiscal year of all
32 districts increased by the projected percent increase in the United
33 States Consumer Price Index as determined by the Department of
34 Finance for the fiscal year and succeeding fiscal year and divided
35 by the FTES (including nonresident students) attending all districts
36 during the preceding fiscal year. However, if the amount calculated
37 under this paragraph for the succeeding fiscal year is less than the
38 amount established for the current fiscal year or for any of the past
39 four fiscal years, the district may set the nonresident tuition fee at
40 the greater of the current or any of the past four-year amounts.

1 (C) An amount not to exceed the fee established by the
2 governing board of any contiguous district.

3 (D) An amount not to exceed the amount that was expended by
4 the district for the expense of education, but in no case less than
5 the statewide average as set forth in subparagraph (B).

6 (E) An amount no greater than the average of the nonresident
7 tuition fees of public community colleges of no less than 12 states
8 that are comparable to California in cost of living. The
9 determination of comparable states shall be based on a composite
10 cost-of-living index as determined by the United States Department
11 of Labor or a cooperating government agency.

12 (2) The additional revenue generated by the increased
13 nonresident tuition permitted under the amendments made to this
14 subdivision during the 2009–10 Regular Session shall be used to
15 expand and enhance services to resident students. In no event shall
16 the admission of nonresident students come at the expense of
17 resident enrollment.

18 (f) The governing board of each community college district also
19 shall adopt a tuition fee per unit of credit for nonresident students
20 enrolled in more or less than 15 units of credit per term by dividing
21 the fee determined in subdivision (e) by 30 for colleges operating
22 on the semester system and 45 for colleges operating on the quarter
23 system and rounding to the nearest whole dollar. The same rate
24 shall be uniformly charged nonresident students attending any
25 terms or sessions maintained by the community college. The rate
26 charged shall be the rate established for the fiscal year in which
27 the term or session ends.

28 (g) Any loss in district revenue generated by the nonresident
29 tuition fee shall not be offset by additional state funding.

30 (h) Any district that has fewer than 1,500 FTES and whose
31 boundary is within 10 miles of another state that has a reciprocity
32 agreement with California governing student attendance and fees
33 may exempt students from that state from the mandatory fee
34 requirement described in subdivision (a) for nonresident students.

35 (i) Any district that has more than 1,500, but less than 3,001,
36 FTES and whose boundary is within 10 miles of another state that
37 has a reciprocity agreement with California governing student
38 attendance and fees may, in any one fiscal year, exempt up to 100
39 FTES from that state from the mandatory fee requirement described
40 in subdivision (a) for nonresident students.

1 (j) The attendance of nonresident students who are exempted
2 pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (4),
3 or (5) of subdivision (a), from the mandatory fee requirement
4 described in subdivision (a) for nonresident students may be
5 reported as resident FTES for state apportionment purposes. Any
6 nonresident student reported as resident FTES for state
7 apportionment purposes pursuant to subdivision (h) or (i) shall
8 pay a per unit fee that is three times the amount of the fee
9 established for residents pursuant to Section 76300. That fee is to
10 be included in the FTES adjustments described in Section 76300
11 for purposes of computing apportionments.

12 (k) This section shall become operative on July 1, 2022.

13 SEC. 5. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.